


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0332 U.S. PTO

PTO/SB/29 (12/97)

Approved for use through 09/30/00. OMB 0651-0032

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 4821-468-999 Total Pages 33

First Named Inventor or Application Identifier

P. RUBIN et al.

Express Mail Label No. N/A

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

1. ☒ Fee Transmittal Form  
(Submit an original, and a duplicate for fee processing)
2. ☒ Specification (preferred arrangement set forth below) [Total Pages 31]  
-Descriptive title of the Invention  
-Cross Reference to Related Applications  
-Statement Regarding Fed sponsored R&D  
-Reference to Microfiche Appendix  
-Background of the Invention  
-Brief Summary of the Invention  
-Brief Description of the Drawings (if filed)  
-Detailed Description of the Invention (including drawings, if filed)  
-Claim(s)  
-Abstract of the Disclosure [Total Sheets 0]
3. Drawing(s) (35 USC 113) [Total Sheets 2]
4. Oath or Declaration [Total Sheets 2]  
☐ Newly executed (original or copy)  
☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 17 completed)  
[Note Box 5 below]  
i. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33 (b).
5. Incorporation By Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:  
☐ Continuation ☒ Divisional of prior application No. 09/515,390, filed February 29, 2000, which is a divisional of application no. 09/332,196, filed June 14, 1999, which claims priority of Provisional Application Nos. 60/089,224 and 60/122,275 filed on June 15, 1998 and March 1, 1999, respectively.

6. ☐ Microfiche Computer Program (Appendix)
7. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)  
a. ☐ Computer Readable Copy  
b. ☐ Paper Copy (identical to computer copy)  
c. ☐ Statement verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

8. ☐ Assignment Papers (cover sheet & document(s))
9. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney (when there is an assignee)
10. ☐ English Translation Document (if applicable)
11. ☐ Information Disclosure ☐ Copies of IDS Statement (IDS)/PTO-1449 Citations
12. ☒ Preliminary Amendment
13. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
14. ☐ Applicant claims Small Entity status, see 37 C.F.R. § 1.27
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☐ Other:

## 18. CORRESPONDENCE ADDRESS

Customer Number:



20582

(Insert Customer No. or Attach bar code label here)

or ☐ Correspondence address below

NAME					
ADDRESS					
CITY	STATE	ZIP CODE			
COUNTRY	TELEPHONE	FAX			

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Prior application: Examiner R. Cook

Art Unit 1614

Assistant Commissioner for Patents  
Box PATENT APPLICATION  
Washington, D.C. 20231

Sir:

This is a request for filing a ☐ continuation ☒ divisional application under 37 CFR § 1.53(b), of pending prior application no. 09/515,390 filed on February 29, 2000.

of: Paul D. RUBIN and Timothy J. BARBERICH  
(inventor(s) currently of record in prior application)

for METHODS FOR TREATING APNEA AND APNEA DISORDERS USING OPTICALLY PURE (+)  
NORCISAPRIDE (As Amended)  
(title of invention)

1. ☒ The filing fee is calculated below:

## PATENT APPLICATION FEE VALUE

TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	FEE
Total Claims	11	-20	0	\$18.00 each	\$ 0.00
Independent	2	-3	0	\$84.00 each	\$ 0.00
Basic Fee					\$ 740.00
Multiple Dependency Fee If Applicable (\$280.00)					\$ 0.00
Total					\$ 740.00
50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern					- \$ 0.00
Total Filing Fee					\$ 740.00

2. ☒ Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.
3. ☒ Amend the specification by inserting before the first line the following sentence: This is a division of application no. 09/515,390, filed February 29, 2000, which is a division of application no. 09/332,196, filed June 14,

1999, which claims priority of Provisional Application Nos. 60/089,224 and 60/122,275 filed on June 15, 1998 and March 1, 1999, respectively.

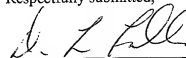
- 4a. ☐ New formal drawings are enclosed.
- 4b. ☐ Informal drawings are enclosed.
- 5a. ☐ Priority of application no. filed on in is claimed under 35 U.S.C. §119.
- 5b. ☐ The certified copy has been filed in prior application no. , filed .
6. ☒ The prior application is assigned of record to Sepracor Inc., in provisional application no. 60/122,275 filed 5/21/99 at reel 009970, frame 0270 and in provisional application no. 60/089,224 filed 6/15/98 at reel 9784, frame 0243..
- 7a. ☒ A copy of the Power of Attorney filed in the prior application no. 09/515,390, filed February 29, 2000 is enclosed.
- 7b. ☐ A Power of Attorney is enclosed.
8. ☐ This application contains nucleic acid and/or amino acid sequences required to be disclosed in a Sequence Listing under 37 CFR §§1.821-1.825. It is requested that the Sequence Listing in computer readable form from prior application no., filed on be made a part of the present application as provided for by 37 C.F.R. §1.821(e). The sequences disclosed therein are the same as the sequences disclosed in this application. A copy of the paper Sequence Listing from application no. is enclosed.
9. ☐ The undersigned states, under 37 C.F.R. §1.821(f), that the content of the enclosed paper Sequence Listing from application no. is the same as the content of the computer readable form submitted in application no. .
10. ☐ DO NOT PUBLISH. I hereby certify that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

10075617-021502

11. ☒ Additional enclosures or instructions.  
Copy of parent application included executed declaration and  
Preliminary amendment

Respectfully submitted,

Date February 15, 2002



48,907

Dean L. Fanelli

(Reg. No.)

For: Stanton T. Lawrence, III (Reg. No. 25,736)  
**PENNIE & EDMONDS** LLP  
1667 K Street, N.W.  
Washington, D.C. 20006  
(202) 496-4400

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